



**FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Harold Simmons
DOCKET NO.: 07-01687.001-R-1
PARCEL NO.: 14-32-429-027

The parties of record before the Property Tax Appeal Board are Harold Simmons, the appellant, by attorney Clyde B. Hendricks of Peoria, and the Peoria County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds no change in the assessment of the property as established by the **Peoria** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$2,240
IMPR.: \$8,790
TOTAL: \$11,030

Subject only to the State multiplier as applicable.

ANALYSIS

The subject property consists of a one-story frame single-family dwelling which was built in 1950. The dwelling has a full unfinished basement of 888 square feet of building area and features an attached one-car garage of 242 square feet of building area. The dwelling contains 888 square feet of living area and is in poor condition and has a quality grade assigned by the assessor of D-5.

The appellant appeared before the Property Tax Appeal Board through counsel claiming overvaluation as the basis of the appeal. At the commencement of the hearing, the appellant's counsel agreed that the assessment appeal is comprised of a residential investment rental property wherein the market approach to value was employed to show the subject's assessment

was incorrect. Counsel also acknowledged that the grid analysis data submitted on behalf of the appellant included land and improvement assessment information for the comparables, but there was no argument being made with regard to alleged inequity of assessments.

Appellant's first witness was William Leroy, who prepared the data presented in the grid analysis. Leroy testified that he is a full-time realtor with 25 years experience; during that time he has occasionally done "tax protesting" with the greatest workload in the quadrennial reassessment years. From time to time, Leroy performs this "tax protesting" work with Robert O. Kaiser. Leroy is not a licensed appraiser and does not have any appraisal designations. Based on his professional experience, Leroy contended that investment properties are generally harder to sell because they are in poorer areas, are generally not well maintained, and there is a limited pool of buyers who may be purchasing with cash.

Under cross-examination, Leroy addressed his fee arrangement testifying that his fee is "based on success" (i.e., contingent on the outcome of the appeal) if he does a "good" job he gets paid and if he does a "poor" job he does not get paid.¹ Leroy was also asked about the nature of the sales comparables which were presented: were these foreclosures, bulk sales, estate sales, sales sold by court order, or financial institutions.

On re-direct examination with regard to repossession resales, Leroy testified that any property that is listed and exposed to the open market where offers and counteroffers could be made for the purchase of a property would be a valid sale for consideration. Leroy testified that unlike in the past when repossessed properties were handled directly by the bank, the current practice is to have third-party companies handle the repossessed properties, which are advertised through the Multiple Listing Service thereby making them available and "on the market." Leroy further contended that as long as the sale was not between related parties, the sale would qualify as an arm's-length transaction, regardless of the number of days listed on the market. He did acknowledge, however, that the third-party company will reduce the listing price the more days the property sits on the market.

The second witness called by appellant was Robert O. Kaiser who assisted Leroy in gathering the comparable data. Kaiser is not

¹ Attorney Hendricks indicated that he is compensated for his time on the appeal.

an appraiser and has no appraisal designations; he was a real estate agent until March 31, 2008, but his primary profession is as a certified public accountant. Kaiser has bought and sold hundreds of houses in the local Peoria real estate market over the past 25 years through various companies he has owned.

As set forth in the grid analysis in support of the overvaluation argument, the appellant submitted information on three sales comparables. The properties were improved with one, one-story and two, one and one-half-story frame or brick and frame dwellings that were built between 1895 and 1958. Each comparable has a basement ranging in size from 300 to 1,062 square feet of building area, one of which has 797 square feet of finished area. One comparable has central air conditioning and a fireplace; one comparable has a two-car garage. The comparables have quality grades assigned by the assessor of C-1 and D and are reported to be in fair or "fair plus" condition. The dwellings range in size from 960 to 1,326 square feet of living area. The comparables sold between June and August 2007 for prices ranging from \$14,000 to \$23,500 or from \$11.11 to \$24.47 per square foot of living area including land. Each of these sales were repossession resales which were on the market for -2, 87 and 279 days, respectively. Leroy had no explanation for the negative days on market figure. Comparable #3 was originally listed for \$39,000 and eventually the price was reduced to \$30,000 after which it sold for \$23,500. Leroy further noted that at the time of these sales, the "days on market" reported on Multiple Listing Service sheets were from the most recent listing; had there been a previous listing of the property with another realtor without a sale, those days on the market would not be part of the reported "days on market."² Based on this evidence, the appellant requested a reduction in the subject's total assessment to \$5,600 or to reflect an estimated market value of \$16,800.

On cross-examination, Leroy was asked to explain his selection of one and one-half-story comparables when the subject was a one-story dwelling; Leroy indicated that in trying to find comparables similar in size there were occasions like this matter where this was the best comparables he could find similar to the subject. The board of review next noted that appellant's comparables #1 and #2 were considerably larger than the subject dwelling.

² More recent practices require reporting "cumulative days on market" which would include the prior listing's "days on market" figure.

The board of review submitted its "Board of Review Notes on Appeal" wherein the subject's final assessment of \$11,030 was disclosed. The subject's assessment reflects an estimated market value of \$33,203 or \$37.39 per square foot of living area including land using the 2007 three-year median level of assessments for Peoria County of 33.22%.

In support of the subject's assessment, the board of review presented descriptions and sales data on three comparable properties located in the same neighborhood code assigned by the assessor as the subject. The comparables consist of one-story frame dwellings that were built between 1934 and 1964. Each comparable has a basement ranging in size from 672 to 892 square feet of building area, one of which has 600 square feet of finished area. Each of the comparables has central air conditioning and one comparable has a fireplace; each of the comparables have garages ranging in size from 352 to 460 square feet of building area. The dwellings range in size from 672 to 892 square feet of living area. The comparables have quality grades assigned by the assessor of C-10 and D+5 and are reported to be in either fair or average condition. These comparables sold between April 2004 and June 2006 for prices ranging from \$36,000 to \$64,000 or from \$53.57 to \$73.73 per square foot of living area including land. Based on this evidence, the board of review requested confirmation of the subject's assessment.

In written rebuttal, appellant noted each of the board of review's comparables feature central air conditioning which was not a feature of the subject. Appellant also asserted each of the board's comparables was of a better grade and condition than the subject according to the assessor. Appellant also noted that board of review comparable #2 includes a finished basement not found on the subject and based on the Multiple Listing Service data board of review comparable #1 also has a finished basement recreation room with a fireplace which was not reported on the board's grid analysis.

After hearing the testimony and reviewing the record, the Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of this appeal. The Board further finds a reduction in the subject's assessment is not warranted.

The appellant contends the assessment of the subject property is excessive and not reflective of its market value. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City

Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). The Board finds the evidence in the record does not support a reduction in the subject's assessment.

The parties submitted a total of six comparable sales for the Board's consideration. The Board gave less weight to appellant's comparables #1 and #2 due to differences in size, design and/or age from the subject property. The Board also gave less weight to board of review comparables #1 and #2 due to their superior feature of a finished basement as compared to the subject. The Board finds comparable #3 submitted by the appellant and comparable #3 submitted by the board of review were the two most similar comparables to the subject in size, exterior construction, condition, and/or grade. Due to their similarities to the subject, these comparables received the most weight in the Board's analysis. These comparables sold in January 2004 and July 2007 for prices of \$24.47 and \$53.57 per square foot of living area including land. The subject's assessment reflects a market value of approximately \$33,203 or \$37.39 per square foot of living area including land, using the three-year median level of assessments for Peoria County of 33.22%. The Board finds the subject's assessment reflects a market value that falls within the range established by the two most similar comparables on a per square foot basis and is appropriately higher than the most similar comparable, appellant's comparable #3, which is 55 years older than the subject dwelling. After considering adjustments to the comparables for any differences when compared to the subject, the Property Tax Appeal Board finds the subject's estimated market value as reflected by its assessment is appropriate and a reduction is not warranted.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

Ronald R. Crit

Chairman

K. L. Fan

Member

Richard A. Huff

Member

Harold H. Lewis

Member

Member

DISSENTING:

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: December 23, 2009

Allen Castrovillari

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.